IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 3096 of 2004
in
Writ Petition No. 9648 of 2004

1. Smt.Sushma Varma and anr. ..Petitioners

vs.

1. Indusind Bank Limited & Ors. ..Respondents

Mr.D.D.Madan with Mr.Harish Pandya and Shri Z.A.Jariwala i/b M/s Thakore Jariwala & Associates for petitioners.
Mr.P.K.Samdani with Mr.N.M.Dhruva i/b M.Dhruva and Co. for respondents.
Mr.J.P.Sen with Smt.Jacinta D'Silva for auction purchaser.

CORAM: A.P.SHAH AND
S.C.DHARMADHIKARI JJ
23rd December,2004

P.C.

1. We have heard Mr.Madan, appearing for the petitioners, Mr.Samdani for respondents and Mr.Sen for auction purchasers.

2. By consent of all the parties, following order is passed.

i) The petitioners agree to pay to the respondent Bank a sum of Rs.2 crores and 97 lacs by attorneys' cheque on or before 27th December, 2004 towards the bank's claim in the notice under sec.13 of the the Securitisation and Reconstruction of Financial Assets and Enforcoement of Security Interests Act,

2002 without prejudice to their rights and contentions in pending counter claim and to revive the appeal under sec.17 of the Securitisation Act.

ii) The petitioners also agree to pay to the auction purchasers the sum of Rs.2,00,000/- by attorneys' cheque on or before 27th December, 2004.

3. In case the payments are made as per clauses (i) and (ii) above the order in the writ petition dated 14th December, 2004 to stand set aside and respondent Bank shall forthwith return the entire consideration to the auction purchaser. However, if the petitioners fail to make the payment as per clauses (i) and (ii) the review application to stand dismissed and the auction sale to stand confirmed.

4. The petitioners are free to apply to DRT for revival of the appeal under sec.17 of the Securitisation Act after depositing the court fees as per the Rules without prejudice to their rights and contentions with regard to payment of court fees.

5. In the event of the petitioners' depositing the amount as per clauses (i) and (ii) above, the respondent Bank will be free to withdraw the O.A.

pending before DRT. This, however, will not affect the rights of the petitioners to pursue the counter claim and appeal under sec.17.

6. Review petition is disposed of accordingly.